



ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia  
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Kingdom of Cambodia  
Nation Religion King

Royaume du Cambodge ព្រះរាជាណាចក្រកម្ពុជា Nation Religion Roi ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception): ..... ០១ / ០៧ / ២០១២ .....
ពេលវេលា (Time/Heure):..... ១៥:១៥ .....
អង្គជំនុំជម្រះសាលាដំបូង/Case File Officer/L'agent chargé ..... SANN RADA .....

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber  
Chambre de première instance

**WRITTEN RECORD OF PROCEEDINGS**

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

19 July 2012

Substantive Hearing on evidence – Day 80

Prepared by:

Andrew McINTYRE and DUCH Phary

<b>Attendance Record</b>
<b>Before:</b> Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge Jean-Marc LAVERGNE, Judge YA Sokhan, Judge YOU Ottara.
<b>Reserve Judges:</b> Judge THOU Mony, Judge Claudia FENZ.
<b>Greffiers:</b> Mr. Andrew McINTYRE, Ms. SE Kolvuthy, Mr. DUCH Phary.
<b>OCP:</b> Mr. SONG Chorvoïn, Mr. CHAN Dararasmey, Mr. Tarik ABDULHAK, Mr. Salim NAKHJAVANI.
<b>Accused:</b> Mr. KHIEU Samphan, Mr. NUON Chea, Mr. IENG Sary (from the holding cell)
<b>Defence for the Accused:</b> Mr. SON Arun, Mr. Andrew IANUZZI, Mr. Jasper PAUW, Mr. Arthur VERCKEN, Mr. KONG Sam Onn, Mr. ANG Udom, Mr. Michael G. KARNAVAS.
<b>Civil Parties:</b> Mr. PICH Ang, Mr. SAM Sokong Ms. Elisabeth SIMONNEAU-FORT, Ms. Christine MARTINEAU, Mr. Lor CHUNTY, Mr. VEN Pov, Ms. TY Srinna, Ms. CHET Vanly, Mr. Olivier BAHOUGNE, Mr. HONG Kimsuon.
<b>Witness:</b> Mr. David CHANDLER (TCE-11).
<b>Others:</b> Mr. Simon MEISENBERG, Ms. Sonia MESSAOUDI.

<b>General court times</b>		
Day	Start time: 9:00	Finish time: 16:00

Recess am	Start time: 10:35	Finish time: 10:55
Recess	Start time: 12 00	Finish time: 13:30
Recess pm	Start time: 14:40	Finish time: 15:00
	Total Court Time:	4 hours and 50 minutes

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Ruling on NUON Chea Defence request to use new documents	TC	9:03	9:04
Ruling on IENG Sary Defence request not to hold a hearing on Friday 20 July 2012	TC	9:04	9:08
IENG Sary Defence requests and waiver of the Accused's right to be present in the courtroom	IS Defence	9:10	9:20
Questioning of the ECCC Physician	TC	9:30	9:35
Ruling on <i>ex parte</i> communication with TCE-11	TC	9:41	9:43
Testimony of Expert Witness David CHANDLER (TCE-11)	OCP	9:47	15:57
Waiver of the Accused's right to be present in the courtroom	NC Defence	12:04	12:05

### Summary of Proceedings

#### Ruling on NUON Chea Defence request to use new documents

The Chamber ruled on NUON Chea's second Rule 87(4) request in motion E172/27/2 to put another 11 new documents before the Chamber and to be allowed to use these during the examination of TCE-11. The Trial Chamber rejected the request.

#### Ruling on IENG Sary Defence request not to hold a hearing on Friday 20 July 2012

The Chamber declined the request of the IENG Sary Defence made orally on 18 July 2012 that the Chamber not hold a hearing on Friday 20 July 2012 because of a prior commitment on the part of international counsel.

#### IENG Sary Defence requests and waiver of the Accused's right to be present in the courtroom

The IENG Sary Defence requested that the ECCC physician give his opinion on IENG Sary's health, and also indicated that IENG Sary waived his right to be present in the courtroom. The IENG Sary Defence also asked for clear guidance from the Chamber regarding communication between parties and witnesses, in light of apparent communication between the OCP and TCE-11 on 18 July 2012. Finally, the IENG Sary Defence submitted that it wanted to know precisely which documents TCE-11 had seen prior to giving testimony.

**Questioning of the ECCC Physician**

The ECCC physician gave his opinion on the health condition of IENG Sary.

**Ruling on ex parte communication with TCE-11**

The Trial Chamber reminded TCE-11 not to communicate with any parties to the proceedings.

**Waiver of the Accused's right to be present in the courtroom**

The Accused Mr. NUON Chea waived his right to be present in the courtroom for the afternoon session.

**Testimony of Expert Witness David CHANDLER (TCE-11)**

The Co-Prosecutors continued questioning TCE-11.

**Record of Rule 87(3) Proceedings**

TC No	OCIJ No	ERN	Title	Class	Note in Khmer	Note in English	Note in French
N/A	E172/27/1	00823757-00823765-00823751-00823756	សំណើវិធាន ៨៧ សុំប្រើប្រាស់ឯកសារក្នុងអំឡុងពេលសួរដេញដោលអ្នកជំនាញ DAVID Chandler	P			
		00823678-00823691, 00825418-00825422, 00820987-00820997, 00701668-00701679	[Partial T.] ឧបសម្ព័ន្ធ ៧៥៖ សៀវភៅមានចំណងជើងថា សោកនាដកម្មជាប្រវត្តិសាស្ត្រនៃប្រទេសកម្ពុជា				
E3/1683	D108/50/1.75	00193067-00193488-00824485-00824491, 00825423-00825430, 00726657-00726663	Annex 75: Book entitled "The Tragedy of Cambodian History" [Partial T.] Annexe 75: Livre de David P. Chandler "The Tragedy of Cambodian History, Politics, War and Revolution since 1945"- Extraits	P	00820993	00193197, 00193299, 00193309, 00193302, 00193309-10, 00193325, 00193084,	

00821727,  
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00393031,  
00393021-  
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00393023

E3/17 D222/1.3 00392897-00393174 [Surrogate Sheet] CHANDLER David, Brother Number One P

E3/25 D243/2.1.9 00063000-00063058 00491394-00491438 00504014-00504066 [លិខិតបញ្ជាក់ការជំនួសឯកសារ] ទង់បដិវត្ត លេខ ពិសេស ធ្នូ-មករា 1976-77 [Surrogate Sheet] CPK Magazine entitled: "The Revolutionary Flag", Special Issue, December 1976 -January 1977 (FULL) P [Feuille remplacée] CPK Magazine entitled: "The Revolutionary Flag", Special Issue, December 1976 -January 1977 (FULL)

E3/1684 D108/50/1.4.6 00191816-00192089, 00286568-00286575 00182365-00182395, 00192667-00192932 00357247-00357451 សៀវភៅនិពន្ធដោយ DAVID Chandler មានចំណងជើងថា៖ "សំឡេងពីមន្ទីរ ស-២១" Book by DAVID Chandler entitle: "Voices from S-21 - Terror and History in Pol Pot's Secret Prison" P Livre écrit par DAVID Chandler intitulé:"Pol Pot, Anatomie d'un cauchemar"

E3/1686 D366/7.1.69 00678943-00679260 00422621-00422921 00700340-00700340 សៀវភៅនិពន្ធដោយ ដេវីឌ ចាណូល័រ(David Chandler) មានចំណងជើងថា "ប្រវត្តិសាស្ត្រខ្មែរ" Book by David Chandler entitled "A History of Cambodia" 3rd Edition P Livre de David Chandler intitulé "A History of Cambodia" 3em Edition

E3/273 D262.14 00657431-00657462 00167797-00167863 00725791-00725804 [លិខិតបញ្ជាក់ការជំនួសឯកសារ] [កែតម្រូវ១] [Partial T.] ឧបសម្ព័ន្ធ ០០០១៤៖ រៀង សារី រៀបចំពិធីជប់លៀងជូនមន្ត្រីការទូត [Surrogate Sheet] Annex 00014: Foreign Broadcast Information Service collection of reports for January 1976 P [Feuille remplacée] [Partial T.] Annexe 00014: IENG Sary donne une réception pour les diplomates

0063039-40 00491425 00504049-50

00191853, 00192700-01, 00357284-5, 00182517-18, 00192815, 00357395, 00191845-46, 00192693-94 00357277

00679171-72, 00422838-9, 00679175-77 00422842

00657439-40 0025796-97

E3/274	D262.16	00700113-00700122 00167913-00168005 00700108-00700112, 00757849-00757849	<p>[លិខិតបញ្ជាក់ការជំនួសឯកសារ] [Partial T.]          ឧបសម្ព័ន្ធ 00016:          សេចក្តីរាយការណ៍អំពីដំណើរទស្សនកិច្ចរបស់រដ្ឋមន្ត្រីពាណិជ្ជកម្មនៃសាធារណរដ្ឋប្រជាមានិតុចិន          [Surrogate Sheet] Annex 00016: Foreign Broadcast Information Service collection of reports for March 1976          [Feuille remplacée] [Partial T.] Annexe 00016: Reportage sur la visite du ministre du commerce de la république populaire de chine</p>	P	00700118	00167986	00700112
E3/12	6.3	00003136-00003142, 00000758-00000764 00182809-00182814 00224363-00224367	<p>សេចក្តីសំរេចរបស់គណៈមជ្ឈឹមអំពីបញ្ហាផ្សេងៗមួយចំនួន          Decision of central committee on a number of problems          Decision of central committee on a number of problems</p>	P	00003140, 00003141	00182813, 00182813-14	00224366, 00224366-67
E3/232	13.8	00017116-00017123 00182628-00182634 00323932-00323936	<p>កំណត់ហេតុនៃអង្គប្រជុំការងារប្រចាំថ្ងៃ ៨មីនា ១៩៧៦          Minutes of meeting on local affairs on 8/3/76          Minutes of meeting on local affairs on 8/3/76</p>	P	00017118	00182630	00323933
E3/165	13.13	00053603-00053645 00184048-00184078 00301334-00301362	<p>សន្និបាតលើកទី១ សម័យកាលទី ១ របស់សភាតំណាងប្រជាជនម្ពុជា ១១-១៣ មេសា ៧៦          General Assembly first session of representative assembly of Kampuchea People 11-13/4/76          L'Assemblée des représentants du Peuple du Kampuchéa 11-13/4/76</p>	P	00053634	00184068	00301354
E3/197	13.9	00000744-00000748 00182638-00182642 00334961-00334963	<p>កំណត់ហេតុនៃអង្គប្រជុំគណៈអចិន្ត្រៃយ៍រណសិរ្សថ្ងៃទី ១១ មីនា ៧៦          Minutes of meeting of permanent committee Front on 11/3/76          Procès-verbal de la rénuion du Comité Permanent du Front le 11 mars 1976</p>	P	00000744	00182638	00182638
E3/275	D262.17	00700123-00700145 00167594-00167675 00685632-00685645	<p>[លិខិតបញ្ជាក់ការជំនួសឯកសារ] ឧបសម្ព័ន្ធ 00017: លោក ហ៊ូ នីម (HU Nim)          ចេញសេចក្តីប្រកាសព័ត៌មានអំពីសភាតំណាងប្រជាជន          [Surrogate Sheet] Annex 00017: Foreign Broadcast Information Service collection of reports for April 1976          [Feuille remplacée] Annexe 00017: Hu Nim annonce un communiqué de presse de l'assemblée du peuple</p>	P	00167605		

**Oral Orders/Decisions:**

- Ruling that the 11 new documents proposed to be put before the Chamber by the NUON Chea Defence on the grounds previously specified in its motion E172/27/1 could not be put before the Chamber, for the reasons already given by the Chamber in its oral decision of 18 July 2012 on E172/27/1.
- Ruling that the Chamber would hold a hearing on Friday 20 July 2012, notwithstanding the request of the IENG Sary Defence not to sit on this date. The Chamber reminded the parties that they have known since the outset of the trial that, although the Chamber would try to ensure that Fridays were kept free of sitting commitments, the parties must be flexible because there would be occasions when it was necessary to sit on a Friday. It is necessary to hold a hearing on 20 July 2012 because the Chamber has lost two sitting days (16 and 17 July 2012) due to the illness of another lawyer and the failure of the OCP to have in place a suitable contingency arrangement.
- Order to bring the Accused IENG Sary (10:32) and NUON Chea (12:04) to the holding cell (waivers of the Accused IENG Sary (remainder of the day) and NUON Chea (afternoon) are attached to this written record).
- Order to bring the Accused back to the detention facility and to return them to the courtroom for the hearing on 20 July 2012.
- Order to bring the Expert Witness David CHANDLER (TCE-11) to his accommodation and to return him to the courtroom for the hearing on 20 July 2012 before 9:00am.

**Orders for Adjournment of Hearing**

The hearing will resume on 20 July 2012 at 9:00 a.m.

Phnom Penh, 19 July 2012

Greffier

Greffier





Andrew McINTYRE      DUCH Phary